

Y. Bow
10/4/51

October 2, 1951
Op. No. 51-264

Arthur Bowie, Superintendent
Williams Public Schools
Williams, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Bowie:

This is in reply to your letter of September 26, 1951, regarding school matters. We will say off-hand that questions of this kind should properly have been submitted to your county attorney. Mr. Wilson has seen fit to answer your question. We will, however, transmit a copy of this opinion to the county attorney of your county.

Your question or proposition is as follows:

"We are about to call for an election for spending our ten cent levy in buying of property west of Williams as a future site for our buildings and recreation center.

Any advice on the above will be appreciated."

The powers of the board of trustees regarding buying school sites are found in Part 3 of Section 54-416 ACA 1939 as follows:

" * * * When directed to do so by a vote of the district, construct school buildings, or purchase or sell school sites; * * *"

The qualifications of voters are set out in Section 54-414 ACA 1939 as follows:

"Every person who is a qualified elector of the state, and who has been a resident of the district for thirty (30) days immediately preceding the day of election, and who is the parent or guardian of a minor child residing in the district, or who has paid a state or county tax, exclusive of poll, road or school tax, during the preceding year, is eligible to election to the office of trustee, and is a qualified elector at any school election.

Either spouse is deemed a taxpayer on community property. Any person offering to vote may be challenged, and the election officers shall thereupon have the powers and duties of general election officers. * * *

We see here that there are three qualifications necessary in order to become a qualified voter. The first is that the individual must be a qualified voter of the state. In order to be a qualified voter of the state an individual must first be a citizen of the United States, a resident of the State of Arizona for at least one year and of the district where he registers at least thirty days, and he must be at least twenty-one years of age. This makes him a qualified elector of the state. The second qualification is that the individual must be a resident of the district for thirty days immediately preceding the day of election. This second qualification seems to be clear. The third one is divided, in that a person who has the first two qualifications and is the parent or guardian of a minor child residing in the district or who has paid a state or county tax. We note from this third part that an individual who is the parent or guardian of a minor child residing in the district may vote although he does not own property. Likewise, an individual who has the first two qualifications and has paid a tax the preceding year may vote. We see here that there might be people who could vote at a State or County election and could not vote at a School Election because he was not the guardian or parent of a minor child residing in the district or had not paid the tax required. We have further directions on voting for establishing school sites in Section 54-419 ACA 1939, as follows:

"When the election is called to decide upon the locating or relocating of school buildings, or the purchase or sale of school sites or school buildings, the election shall be called and conducted as regular school elections, except as to the time of holding the election, and the board of trustees shall be governed by the vote of the majority on all questions submitted.
* * *

This seems to be self-explanatory. Some people have had the idea that a person must be a real property taxpayer to vote on questions of locating school sites or to buy or build school buildings, but we fail to find any statute that requires the elector to be a real property taxpayer, to vote on questions like yours. The only condition that requires the additional qualification of a real property taxpayer in order to vote is provided in Paragraph 13 of Article 7 of the Arizona Constitution which is:

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"Questions upon bond issues or special assessments shall be submitted to the vote of real property taxpayers, who shall also in all respects be qualified electors of this state, and of the political subdivision thereof affected by such question."

You can readily see from the above quotations from the Constitution and our statutes that the paper you quoted is somewhat misleading when it says that those eligible to vote on the issue were property owners or persons who had children in school. The statutes require that the voter must have paid a tax. The ownership of property is not enough, or who is the guardian or parent of a minor child residing in the district. The statute does not require that the minor child be in school, but only residing in the district.

It is our opinion that a person who qualifies as a voter of the district to vote for trustees may vote on the issue of locating or purchasing school sites. It does not appear that the manner of obtaining the money is the question bothering you, but who may vote in determining the location for the school site. It seems to us that we have answered this question fully, and hope that you will be able to carry through properly.

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

CR:od
cc: County Attorney
Coconino County